

**FLATHEAD COUNTY PLANNING BOARD  
MINUTES OF THE MEETING  
JULY 16, 2008**

**CALL TO ORDER** A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. Board members present were Marie Hickey-AuClaire, Gene Dziza, Mike Mower, Gordon Cross, Frank DeKort, Marc Pitman, Randy Toavs , and Jim Heim. Rita Hall had an excused absence. Jeff Harris represented the Flathead County Planning & Zoning Office.

There were approximately 82 people in the audience.

**APPROVAL OF MINUTES** No minutes were approved.

**PUBLIC COMMENT**  
*(not related to agenda items)* None.

**ZONING TEXT AMENDMENT (FPMA 08-02)** Growth Policy Text Amendment regarding the Whitefish Inter-local Agreement jurisdiction. The intent of the text amendment is to re-establish county planning jurisdiction in the area.

**STAFF REPORT** Jeff Harris reviewed Staff Report FPMA 08-02 for the Board.

**AGENCY COMMENT** Nancy Woodriff, Whitefish City Council, thinks that both the city and county are doing what they need to do for their constituents. She wanted the board to recommend that the Commissioners update Chapter 10 of the Growth Policy in regard to the Whitefish Master Plan.

Turner Askew, Whitefish City Council, 3 Ridgecrest Court in Whitefish, agreed with the previous speaker and thanked the Board.

**PUBLIC COMMENT** Denise Smith, of FBIA, 1103 South Main Street in Kalispell, passed out information to the Board and appreciated the meeting being held in Whitefish. She said they sent out about 5100 ballots to each lot owner to get people's opinions. They received about 900 back so far and they're still coming. She asked the Board to make a decision that allows the "donut" residents to have a true diplomatic voice.

Dru Jackman, 830 Highland Drive in Whitefish, was the chairperson for the growth policy steering committee for Whitefish. She appreciated the Board coming to Whitefish. She doesn't want people to think that the Whitefish Growth Policy was done in a snap. She discussed the process that took place.

Joan Vetter Ehrenberg, 744 Hidden Valley Drive in Whitefish, thanked the Board for being here and for their service. She read a letter on behalf of Senator Dan Weinberg and said she submitted her comments via email in support.

Rebecca Norton, of Whitefish, is on the Whitefish Board of Adjustment. She talked about future growth of Whitefish. She said the City of Whitefish spent a lot of money developing the Whitefish Growth Policy. She said to throw that out would be disrespectful. She said they expect Whitefish to double in size in the next 15 years; it is the fastest growing city in the State.

Larry Campbell, 111 Larch Lane in Columbia Falls, said he is a tax-paying citizen of Flathead County. He said government should not control the citizens; the citizens should control government. He talked about the scenic corridor along Highway 93 and Highway 40.

Dave Smith is a former Whitefish resident but now lives in an unzoned area. He is happy the County is taking these steps to give the City of Whitefish some perspective. He finds the Whitefish Growth Policy to be arrogant. He continued to talk about the proposed amendment.

Ben Cavin, PO Box 965 in Whitefish, lives in the donut, thinks the proposed amendment is premature. He understands that the city sued the county and after losing the first round appealed to the Supreme Court. He wondered why act now; hold off until the litigation comes to closure.

Bob Blichenstaff, 550 Grouse Ridge Drive in Whitefish, is concerned with the proposed amendment. He thinks the Whitefish planning department did a superb job putting together the new Whitefish growth policy. He said if the County were to revert to the 1996 plan, it would not meet today's needs. He doesn't think the county should take any action until the lawsuit is settled.

Tim Bratton is a 36-year resident of the Whitefish area. He said he has done a lot of development in the area. He has been before the Flathead County Planning Board before but does not plan on coming back.

Steve Quinell, 533 West 4<sup>th</sup> St in Whitefish, said he's a member of the city board and is running for Flathead County Commissioner. He went over a few things in the report that he disagreed with.

Dick Zoellner, 1365 Voerman Road in Whitefish, said he attended a lot of sessions in regard to critical areas. He said anyone in the county could have come to the visionary meetings and thinks it was a very fair process.

Narda Wilson, land use planner, 184 Midway Drive in Columbia Falls, represented several property owners at the corner of Dillon and Highway 40.

Matt Moran, 2465 Birch Glen in Whitefish, talked about a project he had on Whitefish Lake and setback issues. He doesn't think people have really been able to voice their opinions. He thinks the people that worked on the Whitefish plan are genuine and have some good ideas but thinks they overstepped their bounds on some things. He asked the board to take back the "donut" area.

Gregg Alexander, 510 Blanchard Lake Road, said he has a conservation easement on his property. A lot of work went into the Whitefish Growth Policy and to throw it away in one meeting would be a true injustice to everyone who worked on it and to Whitefish residents.

Bruce Tutvedt, 2335 West Valley Drive, said he is a candidate for senate district 3, which is the north area of Whitefish. He talked about the "donut" area and hoped the county would retake control of the area.

Tom Thomas thinks what's going on is a Growth Policy issue; not a critical ordinance issue. He thinks the people of Whitefish are sincere but that the people in the "donut" area were forgotten about. They didn't have any input. He thinks the people in the "donut" should have a vote as to whether they want to be county or city.

Brent Card, 354 Plantation Drive, talked about critical area and water quality. He talked about the "donut" area issues at length and asked the board to support the Commissioners and take back the area.

Dr. Steven Gorton, 5938 Highway 93 in Whitefish, talked about area zoning, neighborhood plans, and said the 2007 Whitefish document represents a lot of hard work. He has no issue with who makes the decisions but he wants their hard work to be taken into consideration and not have things fall back 12 years to the old document.

Lyle Phillips, 2840 Rest Haven Drive in Whitefish, is a resident of the "donut" area and has been a Whitefish resident for many years. He said the Whitefish City Council has control over his area, whom he has no vote for. He commended the Commissioners for putting forth this amendment which would allow him and his neighbors to have representation.

Bill Rice, 3927 Highway 40 West in Columbia Falls, is a property owner in the "donut" area on Dillon Road. He said a lot of work was done on the 2007 Whitefish plan. He thinks it would be an easy way out for the Planning Board to revert to the 1996 plan.

Charles Lapp, 3230 Columbia Falls Stage Road, said his comments have to do with tonight's amendments; not the new Whitefish plan. He said the 1996 Whitefish plan is currently the one in the County Growth Policy and that's the one that needs to stay in there. He talked about review process and thinks this will be the first of many meetings in regard to the Whitefish "donut" if the county takes control.

Jack Sillacker said he was born and raised in the area but moved out of Whitefish years ago because he couldn't stand the bureaucracy. He talked about people being able to vote and doesn't feel they have any say. He doesn't think Whitefish has any business dealing outside of the city limits; he said they have enough trouble now taking care of things inside the city limits. He said he has a ranch south of Whitefish, in the "donut" area, that's been for sale for a couple years. He said he doesn't even know the people on the Whitefish board and says many of them are from other states. He thinks they're bringing the same problems to this area that they were trying to get away from elsewhere. He reiterated that Whitefish should control city limits only.

Frank Sweeney, 350 Lost Coon Trail in Whitefish, is a county representative on the Whitefish City-County Planning Board. He said the board could be used as the vehicle for making recommendations to the County Commissioners in respect to the "donut" area. He talked about the Whitefish master plan and asked that the board adopt this plan as a lot of hard work was put in. He said there was a public participation process in creating the plan.

Bill Vlachos, 325 Monegan Road in Whitefish, said he's had that property for 35 years and is now being told he can't even vote for what he can do with the land. He thinks the county should take it back.

Mayre Flowers, 35 4<sup>th</sup> Street West in Kalispell, of Citizens for a Better Flathead, wants the process to be balanced and fair for the citizens. She said the city and county don't see a common solution. She talked about the planning process and democracy. She continued to read from her letter and thinks more public comment is necessary before action is taken.

Eugene Lamb, 1535 Karrow Avenue in Whitefish, said if he wanted to be in the city of Whitefish then he would move into the city of Whitefish. He hoped the county would take the area back.

Ole Netteberg, 5491 Highway 93 in Whitefish, on the Whitefish Planning Board but wanted to be heard tonight as a citizen of the "donut" area. He said he went to many of the growth policy meetings and said the majority of those meetings were the local minority. He talked about agricultural use and the viability of the enterprise on these small properties. He said he would gladly give up his seat on the Whitefish City-County Board if the board takes the area back.

Kerry Crittenden, 525 West 9<sup>th</sup> Street in Whitefish, welcomed the board to Whitefish. He is a county appointee on the Whitefish City-County Planning Board. He read his letter to the board. He doesn't really care whose jurisdiction he's under so long as he feels he's represented, zoning that protects his property rights and quality of life, and regulations to protect water and air quality.

Greg Carter, lives and runs a business in Whitefish. He said he was on the committee that developed the critical areas ordinance. He said he likes to look for simple solutions. He talked about the "donut" area. He said there were no minutes from the regular growth policy meetings and said it's an infraction of state law. He thinks the next step should be to hold a meeting with those that would be most affected.

Tina Lawrence, 830 East 2<sup>nd</sup> Street, she said the people of Whitefish are in agreement that Whitefish is a special place but there is a fear of change. She talked about the Whitefish meetings and doesn't think the people were truly heard. She talked about how the "donut" area issues could be fixed.

Mary Person, 325 Blanchard Lake Drive in Whitefish, read a letter to the board and submitted it for the record.

Bryan Westphal, 201 Mountain Ash Lane in Columbia Falls, said he is one of the guilty parties that didn't participate in the public process until later. He talked about his "donut" area property off Highway 40 and how the value has dropped. He talked about water quality and the process surrounding the inter-local area.

Glen Wehe, lives in the North Fork area, said this seems to be a contentious issue. His understanding is that the folks in the "donut" don't have any voting rights in the city of Whitefish, which is completely unreasonable. He talked about the Whitefish master plan and the people affected by changes. He thinks the county is doing the right thing by taking the area back and thanked the board for their time.

Gary Hall, Flathead County Commissioner, wanted to give some historical perspective and comments since he was involved in this thing from its conception. He redirected the board to some points in the staff report and asked the board to carefully read the policies that are considered being changed. He said he worked hard to give Whitefish extra-territorial jurisdiction believing in cooperation and working together but it didn't work out that way. He said many people came to him in the Whitefish growth policy process stating that it was a no-growth agenda driven by a certain group. He talked about the critical area ordinance meetings, water quality, and discussed the things the county would work on when they retake the area. He said the Long Range Planning Task Force is going to work on putting

together architectural standards for the highway corridors. He said there is strong legal opinion that it was illegal for Flathead County to give Whitefish extra-territorial jurisdiction but was overlooked by the County attorney. You can't pass off legislative authority to a government body that does not have representation. He said there have been several attempts to reach out to the city of Whitefish. He thinks the city and county can still work together.

**STAFF  
REBUTTAL**

Harris thanked the public for their comments.

**MOTION**

Pitman made a motion seconded by Hickey-AuClaire to adopt staff report FPMA 08-02 as findings-of-fact.

*The second on this motion was retracted at 8:56 p.m., therefore the motion died.*

**BOARD  
DISCUSSION**

Pitman felt he needed more time to look over the old master plans.

Heim mentioned findings-of-fact and wasn't prepared to figure out what they are.

Harris said there are comments that were handed out at tonight's meeting that the board hasn't had a chance to review.

The Board and staff discussed resolutions and wording.

Cross asked Harris if he was familiar with the Whitefish growth policy.

Harris said he isn't that familiar with it but has read the 1996 plan.

Cross talked about the various growth policies and what the board's action should be.

Harris said staff couldn't suggest that the board adopt the Whitefish plan because they don't know what's in it. He said the zoning in the area is problematic and the county needs to work with the city of Whitefish to determine how best to proceed so that the residents aren't yanked around. He continued to talk about some potential issues. The board and staff discussed the Supreme Court, zoning, growth policies, jurisdictions, the proposed text amendment, and the role of the planning board in regard to the issue-at-hand.

**MAIN MOTION**  
*(2:44:15)*

Pitman made a motion seconded by Hickey-AuClaire to adopt the resolution with the "90-day effective date" wording and recommend approval to the County Commissioners.

**BOARD  
DISCUSSION**

The board and staff discussed the "90-day effective date" wording.

**MOTION**  
(2:51:39)

Dziza made a motion to strike the last paragraph of the resolution in regard to the 90-day wording.

**ROLL CALL**

On a roll call vote the motion passed 5-3 with Cross, Pitman, and DeKort dissenting.

**MOTION**  
(2:54:20)

Toavs made a motion seconded by Dziza to delete Policy 48.3 entirely, including the existing language policy.

~~P.48.3 Annually review the provisions of the inter local agreement for adequacy, accuracy and relevancy and revise as necessary. Whenever practicable, hold additional public meetings and/or workshops on land use issues in locations convenient for county residents around Whitefish to attend.~~

**ROLL CALL**

On a roll call vote the motion passed unanimously.

**MOTION**  
(2:56:22)

Cross made a motion seconded by Heim that the proposed amendment to Chapter 11, Part 1, Page 165 be approved with the exception of deleting the last two suggested sentences. The paragraph would read:

~~On February 1, 2005, under authorization by the Inter local Cooperation Act (7-11-104 M.C.A.), the Flathead County Commissioners signed an inter local agreement granting the City of Whitefish planning jurisdiction over an area adjacent to city limits. The inter local agreement contains provisions for future cooperation, coordination and communication between parties and an annual meeting to review boundaries of the agreement. The agreement also transfers jurisdiction of Lakeshore Protection Regulations on Whitefish Lake to the City of Whitefish. During the process of planning for lands adjacent to the City of Whitefish, Flathead County representatives should work with local residents as well as representatives of the City of Whitefish to protect the quality of life of current residents, anticipate future growth of the city and accommodate the needs of County government to provide services and facilities. This can partly be accomplished by holding public meetings regarding planning issues in convenient locations around Whitefish and by requesting comments from the City of Whitefish on planning issues. Further adherence to this process can be achieved by having land use issues (zoning, subdivision, etc.) reviewed by representatives of both jurisdictions prior to being decided on by the Flathead County Commissioners.~~

**ROLL CALL**

On a roll call vote the motion passed unanimously.

**MOTION**  
(2:58:33)

Toavs made a motion seconded by Dziza that on Page 38 of Appendix C, Part 1 that Policy 48.3 and the associated implementation method be deleted entirely to be consistent with the amendments in the Growth policy.

**1) Flathead County Growth Policy, Appendix C, Part 1, page 38 (same policies as appear in Chapter 11 of Growth Policy, categorized as “Action Items”:**

P.48.1 <del>Maintain and continue coordination and review of the provisions of the existing inter-local agreement between Flathead County and the City of Whitefish. Promote representation by county officials of those residents outside the City of Whitefish, while giving consideration to both the interests of those residents as well as the growth needs of the City of Whitefish during county planning processes.</del>	Regular updates of inter-local agreement. Flathead County shall administer all planning and zoning, subdivision review, lakeshore protection regulations, and floodplain regulations outside Whitefish city limits.  Standard adjacent property notification as well as legal notices.
P.48.2 <del>Maintain communication on planning issues adjacent to the inter-local agreement boundary. Request comments from City of Whitefish agencies on subdivision, zoning and other land use issues within 2 miles of city limits and give consideration to those comments during the county review process.</del>	Agency referral process.
P.48.3 <del>Annually review the provisions of the inter-local agreement for adequacy, accuracy and relevancy and revise as necessary. Whenever practical, hold additional public hearings and/or workshops on land use issues in locations convenient for county residents around Whitefish to attend.</del>	Regular updates of inter-local agreement. <del>For routine, landowner initiated applications follow standard public and adjacent landowner notification procedures, for county initiated changes to plans and/or zoning follow standard public notice procedures and hold public hearings and/or workshops in or around Whitefish, as venues are available.</del> Same as P.48.1

**ROLL CALL**

On a roll call vote the motion passed unanimously.

**BOARD DISCUSSION**

Cross asked Harris if they were adopting the designated land use map tonight.

Harris said yes.

Cross asked if anyone has had the chance to look at the map yet to determine what effect it may have.

DeKort asked about land use in the area.

Harris said the zoning will stay but some of the Whitefish zoning designations would need to be resolved.



Cross asked what happens to the properties that are zoned “W-something.” He said those zones don’t exist in the County Zoning Regulations.

Harris said that’s an issue. One thought is that properties will have to be matched up to a comparable zoning classification.

The board and staff discussed zoning at length.

**ROLL CALL**

On a roll call vote the motion passed unanimously.

**MAIN MOTION  
ROLL CALL**

The motion passed 6-2 with Cross and DeKort dissenting.

**ADJOURNMENT**

The meeting ended at approximately 9:30 p.m. The agenda item will be continued at the next available meeting date.

The next regular meeting will be held at 6:00 p.m. on July 23, 2008.

---

Gordon Cross, President

---

Jill Goodnough, Recording Secretary

*APPROVED AS SUBMITTED/CORRECTED: 9/10/08*